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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/535,457 | 03/24/2000 | Fred Christian Baij | 29462 | 2374 |
| 23482 | 7590 | 09/08/2004 | EXAMINER | |
| WILHELM LAW SERVICE, S.C. 100 W LAWRENCE ST THIRD FLOOR APPLETON, WI 54911 | | | NGUYEN, CHI Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3635 | |

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/535,457 | Applicant(s) BAIJ, FRED CHRISTIAN | |
| | Examiner Chi Q Nguyen | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/22/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 23-30 and 65-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 24-30 and 65-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Exhibit A</u> . |

DETAILED ACTION

This Office action is in response to the applicant's appeal brief filed on 6/22/04.

Further consideration, the finality of the previous office action is withdrawn and the new ground of rejections are presenting as followed:

Claim Objections

Claim 1 is objected to because of the following informalities: the applicant is advised to remove an extra "at" on page 4, line 6. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day (US 5,632,095).

In regarding claim 1, Day discloses a lumber product used in standard in the industry for framing comprises a lumber piece known as a stud, which may be a 2x2, 2x3, 2x4, 2x6, 2x8, 2x10, or 12x12 framing stud of varying lengths, a 4x8 or 4x12 laminated framing lumber piece, such as plywood, of varying thickness, and may also be a 4x4 framing lumber piece of varying lengths, marking lines spaced at ½" intervals or pre-selected interval, such as 12, 16, and 24 inches or combination thereof, additional visible marking lines are imprinted or stamped on the lumber piece (col. 1, lines 43-55). The lumber product comprises a framed structure 10, such as the wall of a

Art Unit: 3635

house, with horizontal 12 and vertical 14 framing lumber pieces, commonly known as footer/header or a bottom plate and a top plate, respectively, visible marking lines 22, a 4x8 plywood laminated framing lumber piece 30, is also shown with visible marking lines 24 and 26 imprinted or stamped along all four edges on the face surface 27. It should be noted that the 16-inch and 24-inch increments are the industry standard for spacing framing studs, depending on the climate of the building are (cols. 2-3, figs. 2-3). See attached figures 2 and 3 with highlights, Day shows the stud locator markings being spaced from each other along the lengths of said elongate pieces of lumber at least one of the limited number of pre-determined stud spacing and the markings indicating the positions where the front and back surfaces of respective lumber pieces are to intersect the respective said elongate piece of lumber being visually conspicuous by double-lines markings as shown in figures 2-3.

Day does not teach specifically at least one strap securing the plurality of elongate pieces of lumber together as said bundle. Examiner takes Official Notice the fact that lumber used in dwelling construction typically comes in bundles wrapped with straps. To provide Day's lumber in strapped bundles would be obvious for delivery to the job site as this is a conventional technique.

With regard to claims 2-5; as set forth above, Day teaches the structural element for the stud-locating markers, which including the interval of 16 inch and 24 inch increments are the industry standard for spacing framing studs, depending on the climate of the building area (see col. 3, lines 13-16). Day does not disclose expressly a plurality of stud locator markings spaced along the lengths interval of 8" as required by the

Art Unit: 3635

applicant's claim 2, and the variation in spacing between the stud locator markings on a respective the framing lumber product, and between respective ones of the framing lumber products, being consistently no more than 0.13" as required by claim 5.

Examiner considers this would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the markings on the studs at the desirable interval such as 8", 16", and 24" and adjust the spacing variation between the stud locator markings of the studs being consistently no more than 0.13" are considered as obvious design choice based on desired use to particular building area in relation to the climate requirement. Thus, the closer spacing for more framing studs would be the better reinforcement for the building structures.

Claims 6-11, 23-30, 65-69, and 70-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day (US 5,632,095) in view of Thomas (US 4,845,858).

Day discloses the basic lumber structure as set forth in the rejection of claim 1, above.

In regarding claims 6-11, 23, 28-30, 65, 70, 71, and 73-77, Day teaches the structural elements for the lumber product as discussed. However, Day does not teach specifically the elongated piece of lumber being substantially devoid of any marking indicators away from the stud locator markings, including sets of 2 side-by-side stud locator marking arrayed along of the framing lumber product, the locator marking having a respective leading edge line, a trailing edge line, and crossing lines between the leading and trailing edge lines, and the trailing edge line of the first stud locator marking is separated from the leading edge of the second stud locator marking by a distance

Art Unit: 3635

greater than the distance between the leading edge and trailing edge of the first stud locator marking.

Thomas teaches stud locating tape 22; each of locator markings comprising two lines, which known as leading and trailing edge lines or 2 side-by-side stud locator marking along of the framing lumber product. The two-line marking known as leading edge line, and a trailing edge line; and the trailing edge line of the first marking is separated from the leading edge of the second stud locator marking by a distance greater than the distance between the leading edge and trailing edge of the first stud locator marking (see fig. 1).

The two-line markings, which corresponding to stud thickness, which shown in figures 1-2; the two-line markings would substantially devoid when the studs 17 are being positioned on them.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Day and Thomas to provide lumber with imprinted markings showing stud locations. This is merely a combination of two well-known features in the lumber art of lumber with pre-marked location indicia and only indicia for stud location. Clearly as taught by Thomas, there are situations where only stud locations are desirable rather than continuous measurement indicia. Day teaches that providing such indicia directly on the lumber rather than on a tape that needs to be attached has many advantages.

In regarding to claims 24-27, 66-69, 72, Day and Thomas teach the structural elements for the stud-locating markers, which including the interval of 16" and 24"

Art Unit: 3635

increments as discussed above. However, Day and Thomas do not teach expressly a plurality of stud locator markings spaced along the lengths interval of 8" and the variation in spacing between the stud locator markings on a respective the framing lumber product, and between respective ones of the framing lumber products being consistently no more than 0.13". Examiner considers this would have obvious to one of ordinary skill in the art at the time the invention was made to arrange the marking on the studs at the desirable interval such as 8", 16", and 24" and adjust the spacing variation between the stud locator markings of studs being consistently no more than 0.13" are considered as obvious design based on desired use to particular building area in relation to the climate requirement. Thus, the closer spacing for more framing studs would be the better reinforcement for the building structures.

Response to Arguments


Applicant's arguments with respect to claims 1-11, 23-30, and 65-77 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1113.


CQN
9/1/04


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

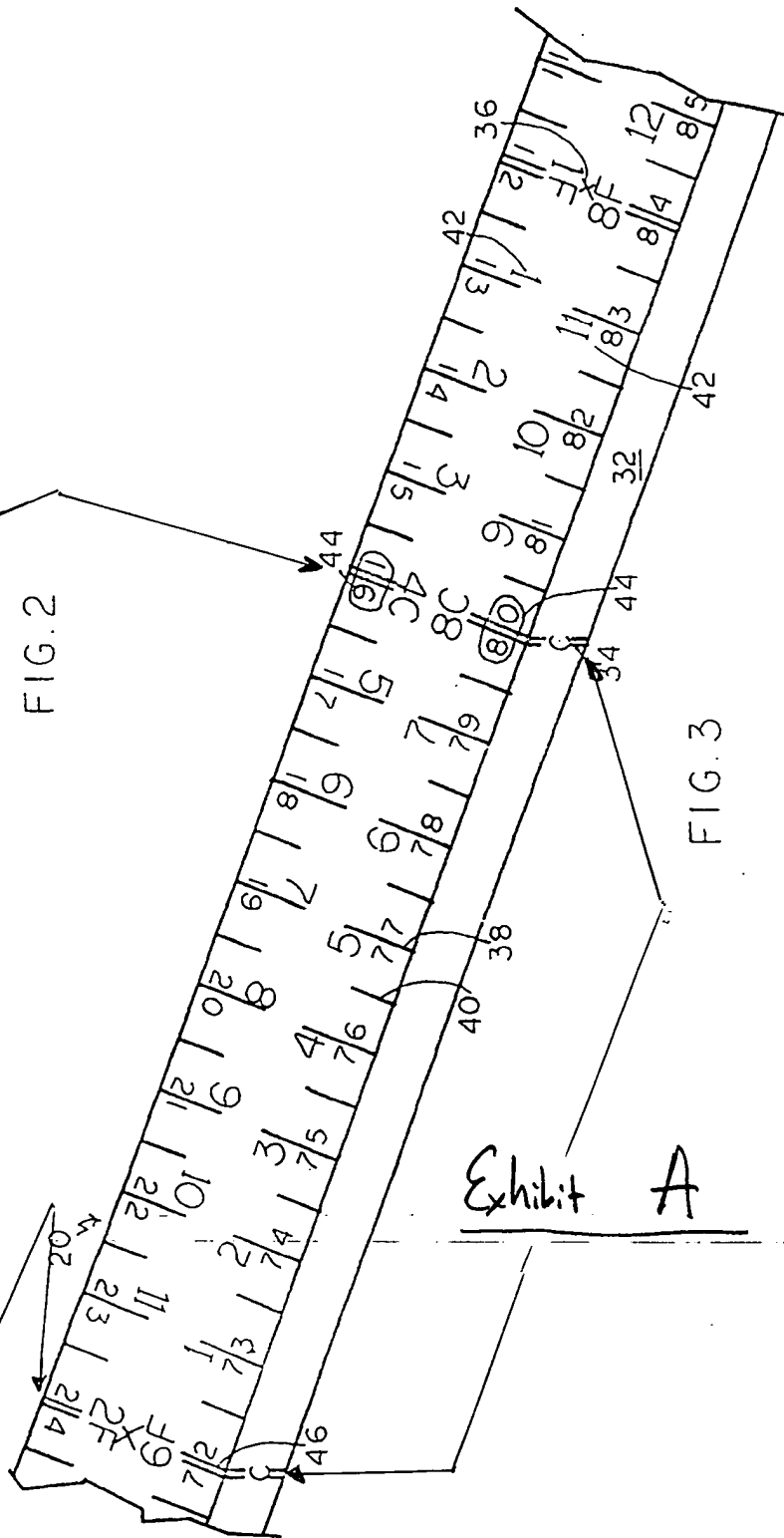
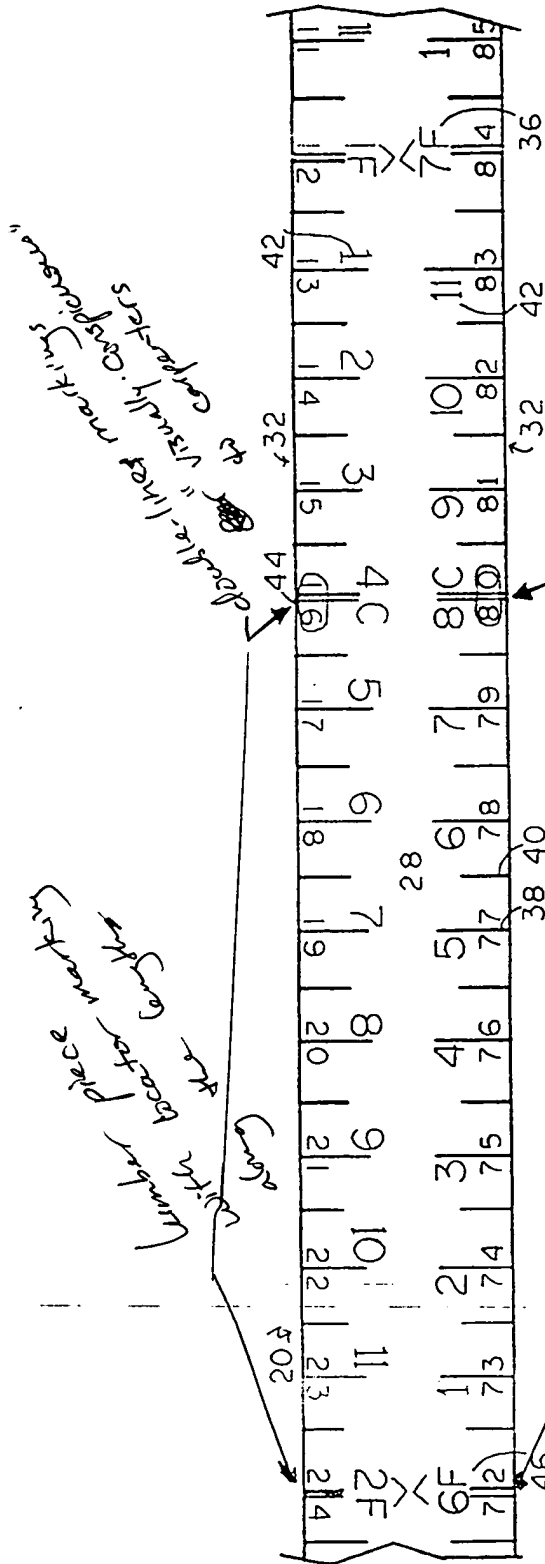


Exhibit A